HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

WPSS No. 803 of 2005

Dravyan lal
Vs
State of Uttaranchal through Secretary
& others.

Approved for reporting.

_____
~~Not approved for reporting~~

Date of decision 03.07.2006

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 803 (SS) OF 2005

Dravyan Lal,
S/o Shri Lovi Lal,
R/o Village – Mangli Shera,
Patti – Barshali,
Tehsil-Dunda,
District – Uttarkashi. .....Petitioner.

Versus

1. State of Uttaranchal, through the Secretary, Department of Basic Education, Government of Uttaranchal, Dehradun.
2. Principal District Education and Training Institute Barkot, District Uttarkashi.
3. Director of Basic Education, Uttaranchal, Dehradun.
4. Additional Director Rajya Shaikshik AnusandhanEvam Prashikshan Parishad, Narendra Nagar Tehri Garhwal, Uttaranchal. .....Respondents.

Mr. R.P. Sharma, Advocate for the petitioner.
Standing Counsel for the respondents no. 1 to 4.

&

WRIT PETITION NO. 1914 (SS) OF 2005

1. Rajendra Prasad,
   S/o Gopal Dutt,
   R/o Village Kurar, Post Office-Kurar,
   District-Chamoli.
2. Km. Heema, D/o Shiv Prasad,
   R/o at present Kedar Bagar,
   Tehsil-Tharali, District-Chamoli. .....Petitioners.

Versus

1. State of Uttaranchal, through the Secretary, Basic Education, Uttaranchal Dehradun.
2. District Basic Education Officer, Chamoli,
   District – Chamoli.

3. Block Education Officer, Block Tharali,
District – Chamoli. .....Respondents.

Mr. B.S. Negi Advocate for the petitioners.
Standing Counsel for the respondents no. 1 to 3.

&

WRIT PETITION NO. 1507 (MS) OF 2005

1. Ramesh Kumar,
S/o Kashmiri Singh,
Tehsil-Roorkee, District-Haridwar.
2. Babu Kumar, S/o Gopi Chand,
R/o Jhabrara, Tehsil-Roorkee,
District-Haridwar.
3. Ombir Singh, S/o Shri Ajab Singh,
R/o Village-Jhabrari Kalan, Pargana Manglaur,
Police Station-Jhabrara, Tehsil-Roorkee,
District-Haridwar.
4. Verendra Kumar, S/o Shri Bhopal Singh,
R/o Kharkhari Dayala, Pargana Bhagwanpur,
Tehsil-Roorkee, District-Haridwar, Uttaranchal.

.....Petitioners.

Versus

1. The State of Uttaranchal through its Secretary Education, Dehradun, , District-Dehradun.
2. Assistant Director Education, District-Haridwar.
3. Zila Basic Shiksha Adhikari,
District-Haridwar.
4. Principal Zila Shiksha and Parshikshan Sansthan Roorkee,
District-Haridwar. .....Respondents.

Mr. Manish Arora, Advocate for the petitioners.
Standing Counsel for the respondents no. 1 to4.

&

WRIT PETITION NO. 525 (MS) OF 2006

1. Dinesh Chandra, S/o Sri Jagdamba Prasad, R/o Village & Post Manpur, District-Uttarakashi
2. Beena Gairola, D/o Vishwashwar Prasad, R/o Village Gari, Post-Pujeli, District-Uttarkashi.
3. Seema Uniyal, W/o Sanjay Semwal, R/o Village Ladari, Post-Joshiyara, District-Uttarkashi.
4. Rameshwar Singh, S/o Sunder Singh, R/o Village Shilan, Post-Joshiyara, District-Uttarkashi.
5. Subesh Bhatt, S/o Laxmi Narayan Bhatt, R/o Village Manpur, Post Manpur, District-Uttarkashi.
6. Prakasmani, S/o Maheshanand Semwal, R/o Village & Post Sald, District – Uttarkashi.
7. Ganga Prasad Dangwal, S/o Shanti Prasad Dangwal, R/o Village Shilan, Post – Joshiyara, District Uttarkashi.
8. Denesh Singh Rawat, S/o Bishan Singh Rawat, R/o Village & Post Pala Bashu, District Uttarkashi.
9. Km. Mamta D/o Vijendra Singh, R/o Village & Post Bheltipari, Malla District-Uttarkashi.
10. Km. Kavita Banuni, S/o Kantiram Banuni, R/o Village Barhat, District-Uttarkashi.
11. Purnand, S/o Bhagwati Prasad, R/o Gyansu, District-Uttarkashi.
12. Trepan Singh, S/o Beerendra Singh, R/o Village Koti District-Uttarkashi.
13. Km. Sunita Banoni, D/o Kantiram Banoni, R/o Barhat, District-Uttarkashi.
14. Harimohan, S/o Brij Mohan, Main Market Uttarkashi, District-Uttarkashi.

15. Krishan Kant Banoni, S/o Kantiram Banoni, R/o Barhat, District-Uttarkashi.

16. Jot Singh, S/o Kripal Singh,
R/o Village Mehar Gaon, District-Uttarkashi.

17. Harsh Vardhan, S/o Brij Mohan,
R/o Main Market Uttarkashi, District – Uttarkashi.

.....Petitioners.

Versus

1. State of Uttaranchal, through its Director, Basic Avem Madhyamik Education, Uttaranchal, Dehradun.
2. Basic Shiksha Adhikari, District-Uttarkashi/Additional Education Officer (Basic), District Uttarkashi.
3. Prinipal District Educational Training Institute, Barkot District-Uttarkashi.
4. Director, N.C.T.E., 2-C/10 Safdarjang Development Area Shri Aurbindo Marg, New Delhi.

....Respondents.

Mr. B.S. Negi, Advocate for the petitioners.
Standing Counsel for the respondents no. 1 to3.
Mr. Sudhir Singh, Advocate for the respondents no.4.

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WRIT PETITION NO. 565 (MS) OF 2005

1. Amar Pal Singh Chauhan,
S/o Sri Harpal Singh Chauhan,
R/o Mohalla Awas Vikas Colony,
Kashipur, District-Udham Singh Nagar.

2. Manoj Kumar, S/o Sri Net Ram Singh,
R/o Village Ward No. 8 Rampura,
Sitarganj, District-Udham Singh Nagar.

.....Petitioners.

Versus

1. State of Uttaranchal, through Secretary Department of Basic Education, Government of Uttaranchal, Dehradun.
2. Principal District Education and Training Institute, Bhimtal, District-Nainital.
3. Director of Basic Education, Uttaranchal, Dehradun.

....Respondents.

Mr. K.N. Joshi, Advocate for the petitioner.
Standing Counsel for the respondents no. 1 to3.

&

WRIT PETITION NO. 1285 (MS) OF 2005

1. Balashwar Kumar, S/o Shri Omk Singh,
   R/o Village-Budpur Chauhan,
   Pargana-Manglaur, Tehsil-Roorkee,
   District-Haridwar.
2. Nemepal Singh, S/o Shri Mahendra Pal Singh,
   R/o Village – Budpur Chauhan,
   Pargana-Manglaur, Tehsil-Roorkee,
   District-Haridwar. .....Petitioners.

Versus

1. The State of Uttaranchal through its Secretary Education Dehradun.
2. Assistant Director Education,
   District-Haridwar.
3. Zila Basic Shiksha Adhikari,
   District-Haridwar.
4. Principal Zila Shiksha and Parshikshan Sansthan Haridwar, District-Haridwar.

....Respondents.

Mr. Manish Arora, Advocate for the petitioner.
Standing Counsel for the respondents no. 1 to4.

Dated: 03.07.2006

Hon'ble Rajesh Tandon, J.

Heard counsel for both the parties at length

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2. By the present writ petitions, the petitioners have prayed for a writ of mandamus directing the respondents to treat the qualification of Shiksha Visharad from Hindi Sahitya Sammelan as equivalent to B.Ed. Hindi and consider the candidature of the petitioners for appointment in the Special B.T.C.

3. Briefly stated, according to the case of the petitioners, they have completed High School, Intermediate and thereafter Graduation from various colleges affiliated with the university concerned.

4. The petitioners after graduation/post graduation have obtained Shiksha Visharad from Hindi Sahitya Sammellan Allahabad in different years after 1995 as will appear from the copy of the marks-sheet. National Council for Teachers Education, 1993 was enforced from after 1st July, 1995. The degree of Hindi Sahitya Sammellan as a 'Shiksha Visharad' having been obtained after 1st July, 1995, when the National Council for Teachers Education Act, 1993 was in operation cannot be recognized.

5. Petitioners are resident of Uttaranchal as will appear from their certificates annexed by them as one of the

essential qualification in accordance with the advertisement issued for the appointment in the Special B.T.C.

6. In a similar writ petitions No. 671 (ss) of 2005, a counter affidavit has been filed, where it has been stated as under:

> *"4. That the contents of paras 5 to 9 of the writ petition as stated are denied. It is submitted that the qualification of Shiksha Visharad from Hindi Sahitya Sammellan, Allahabad is not recognized by N.C.T.E. which is an apex expert body to control over the Institutions of Teachers Training throughout the Country. To provide statutory powers to National Council for Teacher Education and empowers it to make qualitative improvement in the system of teachers education by phasing out sub standard Institutions and courses for new course or training in Teacher Education to grant recognition to Institutions for Teacher Education and permission to reorganize Institutions for new course or training in Teacher Education, the Parliament enacted the National Council for teachers Education Act, 1993 (hereinafter referred to as the N.C.T.E. Act) which came into force on 1st July, 1995. It is pertinent to mention here that recognition of any course or training in Teacher Education imported by an Institution after the coming into force of the N.C.T.E. Act is sine qua non for being eligible for employment under the Central/State Governments or any School, Colleges or other educational body aided by the Central/State Government.*
>
> *It is further submitted that when communications were made to inquire about the status and recognition of the qualification of Shiksha Visharad from Hindi*

Sahitya Sammellan, Allahabad, the Regional Director, N.C.T.E., Northern Region Committee vide his letter dated 6/5/2005 has informed that the Hindi Sahitya Sammellan Prayag, Allahaad had applied for the recognition but after due consideration of all aspects the application for recognition was rejected and non of the course of the Hindi Sahitya Sammellan, Prayag has granted any recognition from N.C.T.E."

7. As will appear from the aforesaid paragraph that the institution must be recognized from the National Counsel for Teacher Education (N.C.T.E) and the candidates having obtained degree from those Institutions shall be considered to be eligible only.

8. As will appear from the degree obtained from the Hindi Sahitya Sammellan, Allahabad, the degree has been given as a Shiksha Visharad and the following endorsement has been made:-

"fgUnh lkfgR; lEesyu f'k{kk fo'kkjn dh mikf/k vkj mldh izek.k esa ;g mikf/ki= iznku djrk gSA"

9. A perusal of the advertisement for one of the districts shows as under:-

"tuin fiFkkjkx< @ PkEikor dh ifjlnh; izkFkfed fo|ky;ksa esa dsoy 100@120 lgk;d v/;kidksa dh 0;oLFkk dh lUnHkZ esa tuin dh eyy fuoklh rFkk Lukrd ;kX;rk/kkjh vkj mRRkjkpy jkT; vFkok mRRkj izn'k esa lapkfyr fof/kekU; fo'ofo/kky;ksa vFkok jkT; ljdkj }kjk lapkfyr egkfo/kky;ksa@ izf'k{k.k egkfo|ky;ksa ls chO ,MO @,yO VhO @lhO ihO ,MO @ MhO ihO ,MO @chO ihO ,MO

@ izf'k{k.k lLFkkxr izf'k{k.kkfFkZ;ksa dk :i ls mRRkh.kZ ls 6 ekg dk fof'k"V chVhlhO izf'k{k.k gsrq p;u dh fy;s vkosnu i= vkeaf=r fd;s tkrs gSA tuin dh eyy fuoklh Lukrd ;kX;rk/kkjh vH;FkhZ ftUgksaus izo's e mRRkj izn'k ljdkj }kjk ekU; rFkk jk"Vªh; v/;kid f'k{kk ifj"kn }kjk ekU;rk izkIr 'kkjhfjd f'k{kk izf'k{k.k rFkk lhOihO,M @ MhOihO,M @ chO,M izf'k{k.k lLFkku izf'k{k.kkFkhZ dk :i esa fd;k gksus Hkh vgZ le>s tk;saxsA''

10. According to the Hindi Sahitya Sammellan, the degree of Shiksha Visharad has been treated to be equivalent to B.Ed and as such the petitioners have submitted that they are entitled for the appointment in Special B.T.C. as advertised by the respondents from time to time.

11. Counsel for the petitioner has also referred the judgment of ***Nirmal Rani Vs. State of U.P. and others [2000 (1) E.S.C. 187 (All)],*** where the Allahabad High Court has held that Shiksha Visharad has been recognized to be equivalent to B.Ed. Paragraph 3 is quoted below:-

> *"3. Petitioner has passed High School and Intermediate Examinations of 'U.P. Board, Allahabad'. She also passed 'Madhyama' (Intermediate level), Sahitya Ratna (B.A. Level) as well as Shiksha Visharad Examinations (said to be equivalent to B.Ed.), Teaching Training Course from Hindi Sahitya Sammelan, Allahabad. Petitioner has filed certain documents (as Annexures-I, II and III to the Writ Petition) to show that 'Shiksha Visharad' of Hindi Sahitya Sammelan is recognized as equivalent to B.Ed./Trained Teacher."*

12. On the contrary, Standing Counsel has relied upon the judgment of ***Shailendra Kumar Singh Vs. State of***

U.P. and others reported in 2004 (2) U.P.L.E.B.C. Page 1716, where in paragraph no. 7 it has been stated that the University Grants Commission has invited the degree of Shiksha Visharad at Serial No. 56 in the list of degree obtained by the Hindi Sahitya Sammellan. Paragraph no. 7 is quoted below:-

> *"7. The University Grants Commission has notified the degree of Shiksha Visharad at Serial No. 56, presently at Serial No. 135 vide notification No. F-1-52/97 (CPP-II), dated 21st August, 2003, in the list of degrees recognized by it. Therefore, the degree of Shiksha Visharad conferred by the Hindi Sahitya Sammellan, Allahabad is one of the degrees recognized by the University Grants Commission. "*

13. However, in paragraph no. 9, it has been stated that the Government of India in order to maintain standards and plain growth of teachers training institution in the country passed the Act known as National Council for Teacher Education in the year, 1993. Section 14 of the Act provides for recognition of the Institution. Section 14 is quoted below:-

> *"**14. Recognition of Institution offering course or training in teacher education.**– (1) Every institution offering or intending to offer a course of training in teacher education on or after the appointed day may, for grant of recognition under this Act, make an application to the Regional Committee concerned in such form and in such manner as may be determined by regulations;*
>
> *Provided that an institution offering a course or training in teacher education immediately before the appointed day, shall be entitled to continue such course*

or training for a period of six months, if it has made an application for recognition within the said period and until the disposal of the application by the Regional Committee.

(2) The fee to be paid along with the application under sub-suction (1) shall be such as may be prescribed.

(3) On receipt of an application by the Regional Committee from any institution under sub-section 91), and after obtaining from the institution concerned such other particulars as it may consider necessary, it shall,- -

(a) if it is satisfied that such institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that ift fulfils such other conditions required for proper functioning of the institution for a course or training in teacher education, as may be determined by regulations, pass an order granting recognition to such institution, subject to such conditions as may be determined by regulations; or

(b) if it is of the opinion that such institution does not fulfill the requirements laid down ion sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing;

Provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

(4) Every order granting or refusing recognition to an institution for a course or training teacher education under sub-section (3) shall be published in the Official

Gazette and communicated in writing for appropriate action to such institution and to the concerned examining body, the local authority or the State Government and the Central Government.

(5) Every institution, in respect of which recognition has been refused shall discontinue the course or training in teacher education from the end of the academic session next following the date of receipt of the order refusing recognition passed under clause (b) of sub-section (3),

Every examining body shall, on receipt of the order under sub-section (4),--

"(a) grant affiliation to the institution, where recognition has been granted; or

(b) cancel the affiliation of the institution, where recognition has been refused."

14. Section 14(3) (b) provides that if it is of the opinion that such institution does not fulfill the requirement laid down ion sub-clause (a), pass an order refusing recognition to such institution for reasons to be recorded in writing provided that before passing an order under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the concerned institution for making a written representation.

15. Section 15 provided the requirement of obtaining permission. The said section is quoted below:-

"***15. Permission for a new course or training by recognized institution.***---*(1) Where any recognized institution intends to start any new course or training in teacher education, it may make an application to seek permission therefore to the Regional Committee concerned in*

such form and in such manner as may be determined by regulations.

(2) The fees to be paid along with the application under sub-section (1) shall be such as may be prescribed.

(3) *On receipt of an application from an institution under sub-section (1), and after obtaining from the recognized institution such other particulars as may be considered necessary, the Regional Committee shall,--*

(a) *If it is satisfied that such recognized institution has adequate financial resources, accommodation, library, qualified staff, laboratory and that it fulfils such other conditions required for proper conduct of the new course or training in teacher education, as may be determined by regulations, pass an order granting permission, subject to such conditions as may be determined by regulation; or*

(b) *If it is of the opinion that such institution odes not fulfill the requirements laid down in sub-clause 9a), pass an order refusing permission to such institution, for reasons to be recorded in writing.*

Provided that before passing an order refusing permission under sub-clause (b), the Regional Committee shall provide a reasonable opportunity to the institution concerned for making a written representation.

(4) Every order granting or refusing permission to a recognized institution for a new course or training in teacher education under sub-section (3), shall be

published in the Official Gazette and communicated in writing for appropriate action to such recognized institution and to the concerned examining body, the local authority the State Government and the Central Government."

16. Section 16 requires a prohibition by the unrecognized course.

17. As will appear from Section 32 of the National Council for Teacher Education Act, 1993 that the norms, guidelines and standards have been framed so far a the minimum qualification for the person to be employed as a teacher under Clause (d) of Section 12 and further specified category of course in teacher training under Clause (e) of Section 32 and therefore, the Institution providing the degree of B.T.C. shall be guided by the aforesaid regulations. The said section is quoted below:-

"***32. POWER TO MAKE REGULATIONS.***

(1) The Council may, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, generally to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generally of the foregoing power, such regulations may provide for all or any of the following matters, namely:-

(a)

(b)

(c)

(d) the norms, guidelines and standards in respect of-

(i) the minimum qualifications for a person to be employed as a teacher under clause (d) of section 12;

(ii) the specified category of courses or training in teacher education under clause (e) of section 12;

(iii) starting of new courses or training in recognized institutions under clause (f) of section 12;

(iv) standards in respect of examinations leading to teacher education qualifications referred to in clause (g) of section 12;

(v) the tuition fees and other fees chargeable by institutions under clause (h) of section 12;

(vi) the scheme for various levels of teacher education, and identification of institutions for offering teacher development programmes under clause (1) of section 12;

18. Section 32 of the National Counsel for Teacher Education Act has also been relied upon in the judgment of ***State of Maharastra Vs. Sant Dnyaneshwar Shikshan Shastra Mahavidhyalay and others 2006 (4) JT SC 2001.*** Relevant observations are quoted below:-

"21. In exercise of the power conferred by Section 32 of the Act, the Council framed Regulations known as the National Council for Teacher Education (Form of application, for recognition, the time-limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new course or training Regulation, 1995. Regulation 5 deals with the manner of making application and Regulation 8 relates to conditions for recognition. Clauses (e), (f) and (g) of Regulation 5 read as under:-

"5. (e) Every institution intending to offer a course or training in teacher education but was not functioning immediately before 17.8.1995, shall submit application for recognition with a no-objection certificate from the State or Union Territory in which the institution is located.

The State Government shall make available to the concerned Regional Committee of NCTE its views/recommendations which will be considered by the Regional Committee while taking a decision on the application for recognition."

19. Standing Counsel has submitted that although Shiksha Visharad has been recognized at Serial No. 56 by the University Grants Commission, but it has not been recognized/affiliated in accordance with Sections, 14, 15 and 16 of the National Council for Teacher Education Act and therefore, Shiksha Visharad cannot be equated to the B.Ed degree and according to the provisions of National Council for Teacher Education.

20. In the case of ***Shailendra Kumar (supra)*** the bench was of the opinion that after 1st July, 1995, when the National Council for Teacher Education Act had come into force, they have to apply for recognition from National Council For Teacher Education. The said observations are quoted below:-

"13. From a reading of the aforementioned provisions it is seen that after the NCTE Act come into force on 1.7.1995, all institutions which want to start any course in or training in teacher education, have to apply and get recognition from

the National Council for Teacher Education. Even a recognized institution which intends to start a new course or training in teacher education has to get recognition for the said course. Not only this, any institution which is offering a course or training I teacher education before the commencement of the NCTE Act is enjoined to apply for recognition of such course or training within six months from the appointed day, i.e. 1.7.1995, and if an application has been made, entitled to continue with the course or training till the disposal of the application by the Regional Committee. If the course or training in teacher education run by an institution is not recognized then the examining body has been prohibited from granting affiliation to the institution concerned and/or holding examination of such course or training. Any qualification obtained from an unrecognized institution or if the course or training is unrecognized then it is treated to be not a valid qualification for purpose of employment under the Central and the State Governments or in any school, college or other educational body aided by the Central Government or any State Government.

14. The provisions of the NCTE Act came up for consideration before a Division Bench of this Court in the case of Upendra Rai v.State of U.P. and others, (2000) 2 UPLBEC 1340, wherein it has been held as follows:-

"3. So far as National Council for Teacher Education Act, 1993 is concerned it was enacted as stated supra, to provide for the establishment of a National Council for Teacher Education with a view to accomplishing planned and coordinated development for teachers education system throughout the country and regulation and proper maintenance of norms and standards in the teachers education system...."

This Court had further held---

"4. The "teacher education" as defined in Section 2 (1) of the Central Act means programmes of education, research or training of persons for equipping them to teach at pre-primary, primary, secondary and senior secondary stages in schools and includes non-formal education, part–time education, adult education and correspondence education. Section 12 of the Central Act enumerates the functions of the National Council for Teacher Education as established under sub-section (1) Section 3 of the Act. The functions enumerated in Section 12 inter alia include : (a) laying down guidelines in respect of minimum qualification for a person employed as a teacher ion schools or in recognized institutions, (b) laying down norms the Fundamental Rules any specified category of course or training, in teacher education, including the minimum eligibility criteria for admission thereof, and the method of selection of candidates, duration of the course, course contents and mode of curriculum; and (c) formulation of schemes for various levels of teacher education and identify recognized institutions and set up new institutions for teacher development programmes. Section 14 of the Act enjoins upon every institution offering or intending to offer course or training in teacher education to make an application to the Regional Committee for grant of recognition. Section 15 requires prior permission of the Regional Committee as a condition precedent to starting any new course or training in teacher education by any recognition institution and according to Section 16 which has an overriding effect as the expressions 'notwithstanding' anything contained in any other law for the time being in force' suggest no examining body shall, on or after the appointed day, grant affiliation, whether provisions of

otherwise to any institution or hold examination, whether provisional or otherwise, for a course or training conducted by a recognized institution unless the institution concerned has obtained recognition from the Regional Committee concerned, under Section 14 of permission for a course of training under Section 15 Section 17 provides for withdrawal of recognition or where an institution offering course or training in teacher education immediately before the appointed day, fails or neglects to obtain recognition or permission under this Act, the qualification in teacher education obtained pursuant to such course or training or after undertaking a course or training in such institution, shall not be treated as a valid qualification for purposes of employment under the Central Government or "any State Government" This necessarily implies that qualification in teacher education obtained from an institution duly recognized under the provisions of the Act, would be treated as a valid qualification for purposes of appointment in Schools and Colleges or other educational body aided by the Central Government or any other State Government. Regard being had to the purpose and object sought to be achieved by the Act as also the provisions thereunder as discussed above, we are persuaded to the view that the person having obtained the qualification in teacher, education from a recognized institution would be qualified for being considered in any school, college or other educational body aided by the Central Government or any State Government."

21. In the aforesaid judgment, reliance has also been placed on the case of ***Union of India and others Vs. Shri Goverdhan L, Kabra Teacher's College, (2002) 8 SCC***

228, where the N.C.T.E. has been recognized to be an apex body:-

"11. ……NCTE is an expert body created under the provisions of the National Council for Teacher Education Act, 1993 and Parliament has imposed upon such expert body the duty to maintain the standards of education, particularly, in relation to teachers' education. Education is the backbone o;f ever democracy and any deterioration in the standard of teaching in the B.Ed. Course would ultimately produce sub-standard prospective teachers who would be teaching in schools and colleges throughout the country and on whose efficiency the future of the country depends,. Inasmuch as the teacher himself has received a sub-standard education it is difficult to expect from him a higher standard of teaching to the students of the school or other institutions."

21. In ***National Council for Teacher Education v Committee of Management 2006 AIR SCW 1333,*** it has been held as under:-

"18. We may notice that a Division Bench of this Court in Krishsamy Reddiar Educational Trust v. Member Secretary, National Council for Teacher Education and another, reported in (2005) 4 SCC 89, opined that:

"It was submitted that in the present matters, all the appellants were applying for the first time and as such they were required to follow the Regulations in force, operative and applicable to fresh applications. In such cases, Notes (1) and (2) of Appendix 1-B (list of essential documents) will apply. Notes (1) and (2) read thus:

"(1) If the application is found incomplete i.e. with all the essential documents, the institution may be asked to

make good deficiencies in the application on or before the last date prescribed in the Regulations.

(2) In the even when deficiencies in an application get removed only after the last date, the application of the institution shall be carried forward by the Regional Committee for consideration for the subsequent academic year i.e. for the course that would be offered one year later."

In our view, the respondents are right in submitting that there was delay on the part of the appellants. In all the three cases, applications were submitted without NOC from the State Government. It has come on record that NOC was applied for belatedly. The State Government could not be blamed for not taking a decision on the applications of the appellants as under Regulation 6 as amended in 2003, it was required to dispose of such applications within six months of the last date of receipt of applications. Even prior to the amended Regulation 6, it was expected to take decision within "reasonable time" (four months) as held in St. Johns Teachers Training Institute. As the appellants applied for NOC in the last week of October, 2003, they cannot make complaint that the State Government delayed the matter. Admittedly, NOCs were submitted to the respondent after the last date of application., If in the above facts and circumstances, recognition has been granted by the respondent on 28-10-2004 by imposing a condition that it would be operative from academic year 2005-2006, it cannot be said that the respondent had acted illegally, arbitrarily or otherwise unreasonably."

21. Before parting with this case, we may place on record that it is categorically stated before us by Mr. Raju Ramchandran that the Council carried forward the application of the Institution for consideration of the subsequent academic year. An inspection has already been carried out and the eligibility of the first respondent to obtain such recognition shall be determined within a period of eight weeks from date. We place on record the aforementioned submissions of the learned senior counsel appearing on behalf of the appellant."

23. Counsel for the petitioners has also referred the order passed by the appellate Authority of National Council for Teacher Education dated 27th February 2001, where the order has been passed to the following effect:-

"WHEREAS the Northern Regional Committee, National Council for Teacher Education, Jaipur in its Order No. 4-3/UP/129/2000/8207 dated the 3rd October, 2000 (hereinafter referred to as the Order) refused recognition to Hindi Sahitya Sammelan, Prayag, Allahabad -211 oo3, Uttar Pradesh for conducting Shiksha Visharad Course on thue grounds that (i) the institution has not been authorized either by the Govt. of India or Govt. of U.P. for conducting this Course; and (ii) as per NCTE norms B.Ed. Course can be conducted either through face to face mode or distance education mode only and the institution's Course is not in accordance with either of the NCTE norms.

AND WHEREAS the Principal, Hindi Sahitya Sammelan, Allahabad (hereinafter referred to as the

Appellant) preferred an appeal dated the 25th November, 2000 to the National Council for Teacher Education, New Delhi hereinafter referred to as the Council) under Section 18 of the NCTE Act, 1993, against the said Order refusing recognition.

AND WHEREAS Shri Radheyshyam Pandey, presented the case of the appellant institution on the 16th January, 2001. In the appeal and personal presentation it was submitted that the institution has been conducting Shiksha Visharad examinations since 1936 in order to prepare language teachers in non Hindi speaking areas of the country and this course got recognition form various State Govts. It has been clarified by the representative that the Hindi Sahitya Sammelan does not conduct any teacher training course and it only conducts examinations through various centers in the country.

AND WHEREAS the functions of Hindi Sahitya Sammelan Act, 1962, are inter alia as under:-

To arrange for the holding of examinations through the medium of Hindi language and to confer degrees, diplomas and other academic distinctions'

To establish and maintain schools, college and other institutions for instruction in Hindi Language and Hindi literature and also to affiliate schools, colleges and other institutions for its examinations.

AND WHEREAS the provisions of NCTE Act did not envisage for grant of recognition to affiliating / examining bodies for conduct of examinations and award of degrees/diplomas. NCTE Act requires recognition by NCTE for institutions running teacher training courses. Ion these circumstances, the Hindi

Sahitya Sammelan is not required to seek recognition form NCTE for conducting examination for Sahitya Visharad Course.

24. In view of the above, Shiksha Visharad although has been recognized to be a degree equivalent to B.Ed. and also found place at Serial No. 56 in the University Grants Commission, but the same is subject to the institution having obtained the recognition and affiliation as required under Section 14 of the N.C.T.E. Act but the Institution concerned has to apply for recognition as required under Section 14 of the Act, before the degree can be recognized.

25. The aforesaid order of the appellate authority is also clear, which provides to the following effect:-

" However, for the institutes maintained by the Hindi Sahitya Sammelan or the institutions affiliated to it and conducting the teacher training courses, separate individual applications have to be submitted by the said institutions to the concerned Regional Committee."

26. The eligibility of the institution to grant the degree of Shiksha Visharad depends on the National Council for Teacher Education as contained in **N.C.T.E. Vs. Committee of Management 2006 AIR SCW1333.**

27. Sri Sudhir Singh, Advocate for the National Council for Teacher Education has orally submitted that NCTE has been established under an Act of Parliament on August, 17th 1995 and has become empowered to recognize teacher education institutions from the session 1996-1997 and therefore, the candidates, who have been awarded degree

diploma certificate etc. prior to this date by Universities / State Govt. may be got verified from the concerned University/State Govt. or association of Indian University.

28. In view of the above, the petitioners having obtained the degree of Shiksha Visharad after the year, 1995 are not entitled for any relief unless the institution itself is recognized by the National Council for Teacher Education and the same is verified from the concerned University/State Govt. or by the appropriate authority as the case may be.

29. Subject to above observations with regard to recognition and verification, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

03.07.2006
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